

July 2, 2001

1

**RESPONSIVENESS SUMMARY
CONCERNING EPA'S JUNE 5, 2001 PUBLIC NOTICE
PROPOSING A NUMBER OF TMDLs FOR
THE ESCATAWPA RIVER
IN THE STATE OF MISSISSIPPI**

Public Participation Activity Conducted:

On June 5, 2001, EPA Region 4 published an abbreviated public notice in the legal advertising section of The Clarion-Ledger. Additionally, Region 4 mailed copies of a detailed public notice to the Mississippi Department of Environmental Quality (MDEQ), the Plaintiff in the Mississippi total maximum daily load (TMDL) lawsuit against EPA (Sierra Club v. John Hankinson et al., Civil Action No. 1-97-cv-3683-MHS), and persons, identified as potentially interested parties, on a mailing list maintained by Region 4. This public notice requested comments from the public on EPA's proposed TMDLs for the following pollutants of concern for the Escatawpa River (Waterbody ID MS107M3), located in Jackson County, Mississippi:

nonpriority organics
chlorine
pH
organic enrichment/low dissolved oxygen
total toxics
pathogens

Matters on Which Public Was Consulted:

As a result of settlement negotiations in the Mississippi TMDL lawsuit against EPA (Sierra Club v. John Hankinson et al., Civil Action No. 1-97-cv-3683-MHS), EPA had the following commitment:

“Within five (5) years of the Effective Date of this Consent Decree, EPA will have approved State-proposed TMDLs or EPA will propose TMDLs for the WQLSs on the Special Waters listed in Exhibit B attached hereto (Special WQLSs), subject to paragraph V.A.5.b. below. EPA will have approved State-proposed TMDLs or EPA will propose TMDLs for the Special WQLSs for which there is monitoring data as indicated on Mississippi's 1996 § 303(d) List during the first three (3) years of this schedule. EPA will have approved State-proposed TMDLs or EPA will propose TMDLs for the Special WQLSs for which there is evaluated data as indicated on Mississippi's 1996 § 303(d) List during years four and five of this schedule. TMDLs for the Special WQLSs will be proposed by the following dates:”

Number of TMDLs on Special WQLSs Which Will Be Developed Each Year	Established by Mississippi by Date	State TMDL Approved by EPA or EPA-Proposed TMDL
22	6/15/99	12/15/99
33	6/15/00	12/15/00
40	6/15/01	12/15/01
03	6/15/02	12/15/02
06	6/15/03	12/15/03

The public was consulted on proposed, TMDLs for 6 pollutants of concern for the Escatawpa River located in Jackson County of the State of Mississippi. EPA Region 4 had received and evaluated water quality-related data and information about this water and the pollutants and had prepared documents supporting the preliminary determinations of these evaluations.

Summary of Public's Comments:

One person contacted the EPA Region 4 offices, during the public comment period, to request information. The following is a brief summary of the contacts by the public:

1. Mr. Greg Jackson
Mississippi Department of Environmental Quality
June 18, 2001

requested information about whether persons who submitted public comments on the Escatawpa River TMDL were notified that the TMDL was withdrawn and repropoed

2. Mr. Greg Jackson
Mississippi Department of Environmental Quality
June 18, 2001

requested copies of previously-submitted public comments

3. Mr. Greg Jackson
Mississippi Department of Environmental Quality
June 18, 2001

requested addition to EPA's mailing list for TMDL related matters

The following persons provided written or oral comments during the public comment period:

1. Mr. Greg Jackson
Mississippi Department of Environmental Quality
Post Office Box 10385
Jackson, Mississippi 39289-0385
2 letters (June 19, 2001 and June 22, 2001)
2. Mr. C. E. Miller
General Manager
Mississippi Gulf Coast Regional Wastewater Authority
3103 Frederic Street
Pascagoula, Mississippi 39567-4100
June 22, 2001
3. Mr. Greg Jackson
Mississippi Department of Environmental Quality
Post Office Box 10385
Jackson, Mississippi 39289-0385
June 23, 2001
4. Mr. Barry S. Royals
Mississippi Department of Environmental Quality
Post Office Box 10385
Jackson, Mississippi 39289-0385
June 25, 2001
5. Warren Gifford
CHMM
Rohm and Haas Company
June 23, 2001
6. Flinda R. Hill
Mississippi Power Company
June 26, 2001 (2 letters)
7. Michael A. Smith,
Jackson County Port Authority
June 26, 2001

July 2, 2001

4

July 2, 2001

5

Agency's Specific Responses in Terms of Modifications of the Proposed Action or an Explanation for Rejection of Proposals Made by the Public:

It should be noted that the aforementioned request for information, data, documents, etc., was responded to in a timely manner (within 24 hours of the request).

The following are the specific comments and EPA's responses to each of the written comments that were received concerning the proposed TMDLs:

COMMENT

Should have been notified prior to the release of the June 5, 2001 proposed TMDL.

Mr. Greg Jackson, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, June 19, 2001

RESPONSE

In discussions with the State, DEQ was informed of the general approach the Agency was planning to take with regard to the re-proposal of this TMDL. When the TMDL was re-proposed, the State was informed via public notice and direct mailing of the TMDL.

COMMENT

Concerned that insufficient opportunity is being given for review of the re-proposed Escatawpa TMDL.

Mr. Greg Jackson, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, June 19, 2001

RESPONSE

Due to the opportunity allowed for the original TMDL and EPA's participation in stakeholder meetings to discuss the TMDL and the TMDL process after that proposal, EPA believes that sufficient opportunity did exist for the review of the re-proposed TMDL. Additionally, due to Consent Decree deadline to finalize this TMDL by June 30, 2001, EPA is unable to extend the date to finalize the TMDL unless a showing is made to the court demonstrating the need to extend the period to finalize the TMDL.

COMMENT

Requested an extension of the public notice period to allow for address of both State and public concerns.

Mr. Greg Jackson, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, June 19, 2001

July 2, 2001

6

RESPONSE

Due to the opportunity allowed for the original TMDL and EPA's participation in stakeholder meetings to discuss the TMDL and the TMDL process after that proposal, EPA believes that sufficient opportunity did exist for the review of the re-proposed TMDL. Additionally, due to Consent Decree deadline to finalize this TMDL by June 30, 2001, EPA is unable to extend the date to finalize the TMDL unless a showing is made to the court demonstrating the need to extend the period to finalize the TMDL.

COMMENT

The TMDL contains several causes for which the State has notified EPA of its intention to delist. Much of the TMDL is no longer needed and should not be re-proposed by EPA.

Mr. Greg Jackson, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, June 19, 2001

RESPONSE

EPA does recognize that the State notified EPA of its intention to delist several causes in the listed segments. Under the Mississippi TMDL Lawsuit Consent Decree, EPA is under no obligation to propose TMDLs for any water quality limited segments that are determined not to need TMDLs. The notices of intent to delist were submitted to Region 4 after the TMDLs were originally proposed but before they were re-proposed. EPA had not yet made the determination that TMDLs were not needed by the time of the re-proposal.

COMMENT

Resubmitted February 27, 2001 letter with a request that it be kept in the record for the re-proposed TMDL.

Mr. Greg Jackson, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, June 19, 2001

RESPONSE

Comment noted.

COMMENT

The commenter objects to the approval by EPA of any TMDL for a waterbody segment for which there is no scientifically reliable monitoring data indicating impairment. The TMDLs recently proposed for the Escatawpa River are objectionable, in part, on this ground. The approval and implementation by EPA of a TMDL can have serious repercussions on existing and new permitting activity in an area. The commenter believes that the promulgation of a TMDL by EPA in the absence of scientifically defensible monitoring data and/or modeling results is an arbitrary and capricious decision that may subject EPA's future permitting decisions, based in whole or in part on that TMDL, to administrative or judicial review and reversal. To the extent that the implementation of the TMDL would cause MDEQ, the Mississippi Commission on Environmental Quality, or the Mississippi Environmental Quality Permit Board to take arbitrary and capricious regulatory actions, those entities may be forced to determine that the approval of

July 2, 2001

7

an unsubstantiated TMDL is an action beyond EPA's statutory authority and is, thus, not an enforceable part of the federal water pollution control regime as delegated to and administered by the State of Mississippi. The commenter requests that EPA Region 4 withdraw the current document and re-propose TMDLs for this waterbody segment only where data have been collected to confirm actual pollutant specific impairment.

Barry S. Royals, P.E., Surface Water Division Chief, Office of Pollution Control, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, February 27, 2001 - resubmitted by Mr. Greg Jackson, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, June 19, 2001

RESPONSE

The Consent Decree between the Environmental Protection Agency (EPA) and the Sierra Club in the Mississippi Total Maximum Daily Load (TMDL) Lawsuit requires EPA to develop TMDLs for waters included on Mississippi's 1996 303(d) List of Impaired Waterbodies, according to a prescribed schedule. The 1996 Section 303(d) List includes all waters determined to be impaired based on monitored or evaluated assessments, and shows cause(s) of impairment for each listed waterbody. In many cases, the causes listed for monitored waterbodies are listed based on evaluated assessments. These are potential causes of impairment based on local land uses, such as agriculture. In some cases, a monitored waterbody is listed with only evaluated causes. Pursuant to the Consent Decree, EPA is responsible for developing TMDLs for all causes associated with the monitored waterbodies on the 1996 Section 303(d) List, regardless of whether these waters or causes were determined to be monitored or evaluated. This portion of the Escatawpa River is listed as a monitored waterbody on the 1996 Mississippi Section 303(d) List and EPA is obligated under the Consent Decree to develop these TMDLs at this time.

Since there are no data to determine impairment status for these segments and there are no specific pollutants identified for certain key "evaluated" causes, specific pollutant TMDL development is not possible at this time. For this reason, EPA is proposing a phased approach for the TMDL development for these "evaluated" listings. The phased TMDL approach recognizes that additional data and information may be necessary to validate the assumptions of the TMDL and to provide greater certainty that the TMDL will achieve the applicable water quality standard. Thus, Phase 1 identifies levels needed to protect the waterbody and Phase 2 identifies the data and information that needs to be collected to determine the specific causes and develops the appropriate pollutant reductions. The Phase 2 TMDL will include targeted pollution allocation strategies for specific causes of impairment and a margin of safety that addresses uncertainty about the relationship between load allocations and receiving water quality.

EPA guidance states that TMDLs under the phased approach include allocations that confirm existing limits or would lead to new limits or new controls while allowing for additional data collection to more accurately determine assimilative capacities and pollution allocations. (USEPA, 1991) Therefore, no new or additional source of pollutant representative of any of the cited classes of respective impairments shall be introduced into these segments until:

July 2, 2001

8

actual impairment status is known;
specific pollutants causing impairment are determined; and
the Phase 2 TMDLs are developed for individual pollutants in these segments;
or these segments are de-listed based on the biological or toxicity water quality
monitoring to be conducted.

COMMENT

The commenter would be pleased to hear and consider the explanation for why EPA now has decided to propose TMDLs for evaluated (not monitored) pollutant parameters and stream segments for which virtually no scientifically defensible information exists demonstrating a violation of Mississippi water quality standards. At the same time, the commenter stands behind its commitment to monitor all waterbody segments in the State during its continuing basin rotation plan and to propose TMDLs on those segments where impairment is found.

Barry S. Royals, P.E., Surface Water Division Chief, Office of Pollution Control, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, February 27, 2001 - resubmitted by Mr. Greg Jackson, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, June 19, 2001

RESPONSE

The Consent Decree between the Environmental Protection Agency (EPA) and the Sierra Club in the Mississippi Total Maximum Daily Load (TMDL) Lawsuit requires EPA to develop TMDLs for waters included on Mississippi's 1996 303(d) List of Impaired Waterbodies, according to a prescribed schedule. The 1996 Section 303(d) List includes all waters determined to be impaired based on monitored or evaluated assessments, and shows cause(s) of impairment for each listed waterbody. In many cases, the causes listed for monitored waterbodies are listed based on evaluated assessments. These are potential causes of impairment based on local land uses, such as agriculture. In some cases, a monitored waterbody is listed with only evaluated causes. Pursuant to the Consent Decree, EPA is responsible for developing TMDLs for all causes associated with the monitored waterbodies on the 1996 Section 303(d) List, regardless of whether these waters or causes were determined to be monitored or evaluated. This portion of the Escatawpa River is listed as a monitored waterbody on the 1996 Mississippi Section 303(d) List and EPA is obligated under the Consent Decree to develop these TMDLs at this time.

COMMENT

The commenter requests that EPA Region 4 rewrite all sections in these TMDLs that arbitrarily eliminate possible growth in discharge. These decisions must be made on scientific data, not mere speculation.

Barry S. Royals, P.E., Surface Water Division Chief, Office of Pollution Control, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, February 27, 2001 - resubmitted by Mr. Greg Jackson, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, June 19, 2001

July 2, 2001

9

RESPONSE

Since there are no data to determine impairment status for these segments and there are no specific pollutants identified for certain key “evaluated” causes, specific pollutant TMDL development is not possible at this time. For this reason, EPA is proposing a phased approach for the toxicity TMDL development for these “evaluated” listings. The phased TMDL approach recognizes that additional data and information may be necessary to validate the assumptions of the TMDL and to provide greater certainty that the TMDL will achieve the applicable water quality standard. Thus, Phase 1 identifies toxicity level needed to protect the waterbody and Phase 2 identifies the data and information that needs to be collected to determine the specific toxicity causes and develops the appropriate pollutant reduction implementation plans. The Phase 2 TMDL will include targeted pollution allocation strategies for specific causes of impairment and a margin of safety that addresses uncertainty about the relationship between load allocations and receiving water quality.

(USEPA, 1991) Therefore, no new or additional source of pollutant representative of any of the cited classes of respective impairments shall be int EPA guidance states that TMDLs under the phased approach include allocations that confirm existing limits or would lead to new limits or new controls while allowing for additional data collection to more accurately determine assimilative capacities and pollution allocations introduced into these segments until:

actual impairment status is known;
specific pollutants causing impairment are determined; and
the Phase 2 TMDLs are developed for individual pollutants in these segments;
or these segments are de-listed based on the biological or toxicity water quality monitoring to be conducted.

COMMENT

The commenter requests that EPA Region 4 un-bundle these TMDLs. Each pollutant, with the exception of toxics and non-priority organics, should be proposed in a separate document.

Barry S. Royals, P.E., Surface Water Division Chief, Office of Pollution Control, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, February 27, 2001 - resubmitted by Mr. Greg Jackson, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, June 19, 2001

RESPONSE

EPA has developed this TMDL for the listed waterbody’s watershed. This approach allows all pollutants of concern to be addressed through one document. It is EPA’s position that, when possible, all the pollutants in the watershed should be addressed at the same time.

July 2, 2001

10

COMMENT

The commenter requests copies of all comments, along with the responses, received by EPA Region 4 regarding these proposed TMDLs for Escatawpa Segment 3.

Barry S. Royals, P.E., Surface Water Division Chief, Office of Pollution Control, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, February 27, 2001 - resubmitted by Mr. Greg Jackson, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, June 19, 2001

RESPONSE

This information is provided in this document.

COMMENT

The commenter requests that EPA Region 4 re-propose the Dissolved Oxygen TMDL after certain modifications have been completed.

Barry S. Royals, P.E., Surface Water Division Chief, Office of Pollution Control, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, February 27, 2001 - resubmitted by Mr. Greg Jackson, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, June 19, 2001

RESPONSE

The commenter has not indicated what modifications are being sought. No changes to the DO portion of the TMDL are being proposed.

COMMENT

Concerning the dissolved oxygen TMDL, the appropriate and correct water quality model needs to be developed for this waterbody. The current model (based on CEQUAL) used for this study is unverified and, therefore, may be unreliable for establishing the TMDL allocations. The model should be completed based on the WASP water quality model. The commenter requests that EPA Region 4 complete the modeling needed for this TMDL development.

Barry S. Royals, P.E., Surface Water Division Chief, Office of Pollution Control, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, February 27, 2001 - resubmitted by Mr. Greg Jackson, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, June 19, 2001

RESPONSE

This is a Phase 1 TMDL required to be completed to meet Consent Decree deadlines. Phase 2 will include the more detailed modeling that is being requested.

COMMENT

Concerning the dissolved oxygen TMDL, the wasteload allocations appear to be inconsistent in the TMDL report and in the model documentation. These values need to be clearly stated in the TMDL and should be consistent. It would be helpful to show the ultimate to five-day ratio calculations for TBOD values in the appendix. The commenter requests that EPA Region 4 modify the TMDL to reflect these calculations.

July 2, 2001

11

Barry S. Royals, P.E., Surface Water Division Chief, Office of Pollution Control, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, February 27, 2001 - resubmitted by Mr. Greg Jackson, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, June 19, 2001

RESPONSE

Model documentation included the identification of existing sources and loads, but did not include any TMDL or WLA calculations. The TMDL and WLA calculations in the report were based on permitted design flows and loads.

COMMENT

Concerning the dissolved oxygen TMDL, the characterizations of the flows should also be documented in the appendix. MDEQ is willing to assist EPA Region 4 in soliciting this information from dischargers in the watershed. The commenter requests that EPA Region 4 modify the TMDL to adequately document wastewater flows.

Barry S. Royals, P.E., Surface Water Division Chief, Office of Pollution Control, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, February 27, 2001 - resubmitted by Mr. Greg Jackson, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, June 19, 2001

RESPONSE

The flows from the discharges at calibration conditions were used in the modeling calibration report.

COMMENT

Concerning the dissolved oxygen TMDL, MDEQ and EPA Region 4 should schedule discussions on the appropriate in-stream target value to select for the dissolved oxygen TMDL. Due to the far reaching implications of this decision on future standards reviews, the UAA, and site specific criteria, MDEQ and EPA Region 4 should concur on the endpoint target value used prior to TMDL development and proposal. The commenter requests that EPA Region 4 meet with MDEQ to discuss this issue in depth.

Barry S. Royals, P.E., Surface Water Division Chief, Office of Pollution Control, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, February 27, 2001 - resubmitted by Mr. Greg Jackson, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, June 19, 2001

RESPONSE

The water quality target used in the TMDL is consistent with the State's standards and EPA's DO criteria. EPA concurs that additional discussions with the State are needed on the endpoint target value and this will be completed during Phase 2 of the TMDL.

COMMENT

Concerning the dissolved oxygen TMDL, an explicit margin of safety is not needed for this pollutant. There is an allowance for a 10% sag below natural conditions. The modeling effort used

July 2, 2001

12

to establish this natural condition value is conservative. It is based on 7Q10 flows with all of the permitted dischargers set at maximum permit limits. EPA should quantify these conservative assumptions and show some percentage of implicit margin of safety. An additional arbitrary explicit MOS is unnecessary in this case. The commenter requests that EPA Region 4 modify the TMDL.

Barry S. Royals, P.E., Surface Water Division Chief, Office of Pollution Control, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, February 27, 2001 - resubmitted by Mr. Greg Jackson, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, June 19, 2001

RESPONSE

Comment noted, but EPA believes this is an appropriate application of the MOS.

COMMENT

The commenter requests that EPA Region 4 agree with MDEQ's delisting decision on chlorine for this waterbody segment. MDEQ previously provided documentation to EPA Region 4 to indicate the *good cause justification* for removal of this pollutant from the next Section 303(d) list. The original concern was that residual chlorine was being discharged to the river from an existing industry. This industry ceased using chlorine in November 1996. The commenter is not aware of any source that currently discharges chlorine. Chlorine has not been shown to be a problem in any monitoring that the commenter knows of in this segment of the Escatawpa River. A TMDL is not needed for this pollutant, and the commenter requests that EPA Region 4 withdraw the chlorine TMDL.

Barry S. Royals, P.E., Surface Water Division Chief, Office of Pollution Control, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, February 27, 2001 - resubmitted by Mr. Greg Jackson, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, June 19, 2001

RESPONSE

EPA does recognize that the State notified EPA of its intention to delist several causes in the listed segments. Under the Mississippi TMDL Lawsuit Consent Decree, EPA is under no obligation to propose TMDLs for any water quality limited segments that are determined not to need TMDLs. The notices of intent to delist were submitted to Region 4 after the TMDLs were originally proposed but before they were re-proposed. EPA had not yet made the determination that TMDLs were not needed by the time of the re-proposal.

COMMENT

The commenter requests that EPA Region 4 withdraw the fecal coliform TMDL and delist the fecal coliform cause based on *good cause justification*. There are no monitoring data indicating that the Escatawpa River is impaired by bacteria. In fact, computer modeling by EPA indicates that the river is not impaired due to fecal coliform bacteria. MDEQ is preparing delisting documentation for this cause and will forward it under separate cover.

Barry S. Royals, P.E., Surface Water Division Chief, Office of Pollution Control, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, February 27, 2001 -

July 2, 2001

13

resubmitted by Mr. Greg Jackson, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, June 19, 2001

RESPONSE

EPA does recognize that the State notified EPA of its intention to delist several causes in the listed segments. Under the Mississippi TMDL Lawsuit Consent Decree, EPA is under no obligation to propose TMDLs for any water quality limited segments that are determined not to need TMDLs. The notices of intent to delist were submitted to Region 4 after the TMDLs were originally proposed but before they were re-proposed. EPA had not yet made the determination that TMDLs were not needed by the time of the re-proposal.

COMMENT

The commenter requests that EPA Region 4 withdraw the pH TMDL and delist this cause. The naturally occurring low pH values in this waterbody are well documented. This is a black water system with naturally occurring low pH values. Mississippi Water Quality Standards allow for non-impairment assessment based on naturally occurring exceedances of the standards. MDEQ is preparing delisting documentation for this cause and will forward it under separate cover.

Barry S. Royals, P.E., Surface Water Division Chief, Office of Pollution Control, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, February 27, 2001 - resubmitted by Mr. Greg Jackson, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, June 19, 2001

RESPONSE

EPA does recognize that the State notified EPA of its intention to delist several causes in the listed segments. Under the Mississippi TMDL Lawsuit Consent Decree, EPA is under no obligation to propose TMDLs for any water quality limited segments that are determined not to need TMDLs. The notices of intent to delist were submitted to Region 4 after the TMDLs were originally proposed but before they were re-proposed. EPA had not yet made the determination that TMDLs were not needed by the time of the re-proposal.

COMMENT

The commenter requests that EPA Region 4 withdraw the toxicity based TMDL until further monitoring can be completed in the waterbody. MDEQ is negotiating a contract to gather toxicity information on this waterbody by June. Jim Greenfield has offered EPA's laboratory resources to assist in this monitoring effort. These data will be useful in determining if there is indeed impairment in the waterbody. Once the existence of impairment is verified, EPA Region 4 will be in a stronger position to propose this TMDL. Also, if these data indicate there is no toxicity impairment in the waterbody, these parameters should be delisted and any further TMDL activity would not be needed. The commenter requests that EPA Region 4 hold off further TMDL development until the data are collected and assessed.

Barry S. Royals, P.E., Surface Water Division Chief, Office of Pollution Control, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, February 27, 2001 - resubmitted by Mr. Greg Jackson, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, June 19, 2001

July 2, 2001

14

RESPONSE

EPA does recognize that the State notified EPA of its intention to delist several causes in the listed segments. Under the Mississippi TMDL Lawsuit Consent Decree, EPA is under no obligation to propose TMDLs for any water quality limited segments that are determined not to need TMDLs. The notices of intent to delist were submitted to Region 4 after the TMDLs were originally proposed but before they were re-proposed. EPA had not yet made the determination that TMDLs were not needed by the time of the re-proposal.

COMMENT

The commenter requests that EPA Region 4 take the necessary time needed to address the needed modifications, monitoring efforts, modeling revisions, and delisting decisions noted in the commenter's letter.

Barry S. Royals, P.E., Surface Water Division Chief, Office of Pollution Control, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, February 27, 2001 - resubmitted by Mr. Greg Jackson, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, June 19, 2001

RESPONSE

The Consent Decree between the Environmental Protection Agency (EPA) and the Sierra Club in the Mississippi Total Maximum Daily Load (TMDL) Lawsuit requires EPA to develop TMDLs for waters included on Mississippi's 1996 303(d) List of Impaired Waterbodies, according to a prescribed schedule. The 1996 Section 303(d) List includes all waters determined to be impaired based on monitored or evaluated assessments, and shows cause(s) of impairment for each listed waterbody. In many cases, the causes listed for monitored waterbodies are listed based on evaluated assessments. These are potential causes of impairment based on local land uses, such as agriculture. In some cases, a monitored waterbody is listed with only evaluated causes. Pursuant to the Consent Decree, EPA is responsible for developing TMDLs for all causes associated with the monitored waterbodies on the 1996 Section 303(d) List, regardless of whether these waters or causes were determined to be monitored or evaluated. This portion of the Escatawpa River is listed as a monitored waterbody on the 1996 Mississippi Section 303(d) List and EPA is obligated under the Consent Decree to develop these TMDLs at this time.

Since there are no data to determine impairment status for these segments and there are no specific pollutants identified for certain key "evaluated" causes, specific pollutant TMDL development is not possible at this time. For this reason, EPA is proposing a phased approach for the TMDL development for these "evaluated" listings. The phased TMDL approach recognizes that additional data and information may be necessary to validate the assumptions of the TMDL and to provide greater certainty that the TMDL will achieve the applicable water quality standard. Thus, Phase 1 identifies levels needed to protect the waterbody and Phase 2 identifies the data and information that needs to be collected to determine the specific causes and develops the appropriate pollutant reductions. The Phase 2 TMDL will include targeted pollution allocation strategies for specific causes of

July 2, 2001

15

impairment and a margin of safety that addresses uncertainty about the relationship between load allocations and receiving water quality.

COMMENT

On page 22, MDEQ's chronic freshwater criteria for chlorine is shown as 0.11 ug/l. The actual criteria is 11 ug/l.

Mr. Greg Jackson, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, June 22, 2001

RESPONSE

This correction has been made in the TMDL.

COMMENT

The commenter takes exception to the BOD wasteload allocation determinations used for the Escatawpa Municipal POTW. The flow indicated at 1.0 MGD does not represent the actual plant design capabilities. The wasteload allocations should be based on the design parameters of the facility. These are 3.0 MGD flow and 30 mg/l BOD.

Mr. C. E. Miller, General Manager, Mississippi Gulf Coast Regional Wastewater Authority, 3103 Frederic Street, Pascagoula, Mississippi 39567-4100, June 22, 2001

RESPONSE

These changes have been made in the TMDL. The new WLA is 50,330 pounds per day and the TMDL is 102,830 pounds per day.

COMMENT

The commenter takes exception to the use of continuous monitoring for pH for the Escatawpa Municipal POTW discharge and the implementation of unjust TMDLs.

Mr. C. E. Miller, General Manager, Mississippi Gulf Coast Regional Wastewater Authority, 3103 Frederic Street, Pascagoula, Mississippi 39567-4100, June 22, 2001

RESPONSE

Comment noted.

COMMENT

It is requested that the following requirements for pH be allowed:

“The pH shall not be less than 6.5 standard units nor greater than 9.0 standard units and shall be monitored daily with a grab sample of the effluent.”

Mr. C. E. Miller, General Manager, Mississippi Gulf Coast Regional Wastewater Authority, 3103 Frederic Street, Pascagoula, Mississippi 39567-4100, June 22, 2001

RESPONSE

July 2, 2001

16

The decision to require grab or continuous sampling is a permits decision and will not be included in the TMDL.

COMMENT

Requiring continuous monitoring of pH is a direct conflict of the existing NPDES permit as issued by the MDEQ as followed by EPA guidelines.

Mr. C. E. Miller, General Manager, Mississippi Gulf Coast Regional Wastewater Authority, 3103 Frederic Street, Pascagoula, Mississippi 39567-4100, June 22, 2001

RESPONSE

The decision to require grab or continuous sampling is a permits decision and will not be included in the TMDL.

COMMENT

Pathogens and pH should be removed from the TMDL development process since EPA has found that the Escatawpa River is not impaired for these pollutants.

Mr. C. E. Miller, General Manager, Mississippi Gulf Coast Regional Wastewater Authority, 3103 Frederic Street, Pascagoula, Mississippi 39567-4100, June 22, 2001

RESPONSE

EPA does recognize that the State notified EPA of its intention to delist several causes in the listed segments. Under the Mississippi TMDL Lawsuit Consent Decree, EPA is under no obligation to propose TMDLs for any water quality limited segments that are determined not to need TMDLs. The notices of intent to delist were submitted to Region 4 after the TMDLs were originally proposed but before they were re-proposed. EPA had not yet made the determination that TMDLs were not needed by the time of the re-proposal.

COMMENT

Requests copies of all public comments, along with EPA responses.

Mr. Greg Jackson, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, June 23, 2001

RESPONSE

This information is provided in this document.

COMMENT

Repeats that a 30 day public notice period, at a minimum, should have been allowed.

Mr. Greg Jackson, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, June 23, 2001

RESPONSE

Due to the opportunity allowed for the original TMDL and EPA's participation in stakeholder meetings to discuss the TMDL and the TMDL process after that proposal, EPA believes that sufficient opportunity did exist for the review of the re-proposed TMDL.

July 2, 2001

17

Additionally, due to Consent Decree deadline to finalize this TMDL by June 30, 2001, EPA is unable to extend the date to finalize the TMDL unless a showing is made to the court demonstrating the need to extend the period to finalize the TMDL.

COMMENT

The inclusion of HUC 03170006 on the cover is an error. The water segment MS107M3 is completely contained within HUC 03170008.

Mr. Greg Jackson, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, June 23, 2001

RESPONSE

This has been corrected in the TMDL.

COMMENT

On page ii, the WLA and Ultimate BOD TMDL values are wrong. These should be 49,220 and 101,770 lbs/day. These values incorporate the 3.0 MGD value for the Moss Point POTW.

Mr. Greg Jackson, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, June 23, 2001

RESPONSE

This has been corrected in the TMDL.

COMMENT

The chlorine load should be 2.03 lbs/day. The correct standard for this waterbody is 7.5 ug/l, since this water is saltwater.

Mr. Greg Jackson, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, June 23, 2001

RESPONSE

This has been corrected in the TMDL.

COMMENT

EPA has misquoted the freshwater standard as 0.11 ug/l and not 11 ug/l, the actual criterion.

Mr. Greg Jackson, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, June 23, 2001

RESPONSE

This has been corrected in the TMDL.

COMMENT

On page 3, there is a grammatical error in the last sentence.

Mr. Greg Jackson, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, June 23, 2001

RESPONSE

July 2, 2001

18

This has been corrected in the TMDL.

COMMENT

The last sentence on page 3 is factually incorrect. MDEQ collected toxicity samples this spring and WET testing of the effluents of Rohm and Haas, International Paper, and the Moss Point POTW have been ongoing. This sentence should be removed from the TMDL.

Mr. Greg Jackson, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, June 23, 2001

RESPONSE

This has been corrected in the TMDL.

COMMENT

On page 5, the word “aerial” should be corrected to read “areal.”

Mr. Greg Jackson, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, June 23, 2001

RESPONSE

This has been corrected in the TMDL.

COMMENT

The table on page 9 does not match similar tables on pages 17 and 23. EPA should modify the flow data for Escatawpa Municipal to reflect the facility change to 3.0 MGD. EPA should modify the TMDL calculations to be consistent throughout the TMDL.

Mr. Greg Jackson, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, June 23, 2001

RESPONSE

This has been corrected in the TMDL.

COMMENT

The use of the target fecal coliform value of 150 counts per 100 ml on page 13 is arbitrary. The state standard is 200 during the summer and 2000 during the winter. The use of 150 yields an explicit margin of safety of 1850 counts per 100 ml during the winter months. That is excessive and unnecessary. EPA should not arbitrarily set TMDL targets that differ from state standards.

Mr. Greg Jackson, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, June 23, 2001

RESPONSE

The fecal coliform TMDL was developed for the critical condition represented by the summer period, however, the TMDL incorporates an explicit margin of safety of 50 counts per 100 ml which brings the TMDL target down to 150 counts per 100 ml.

July 2, 2001

19

COMMENT

The TMDL states significant model parameters obtained during calibration in the St. Louis Bay watershed were applied to the Escatawpa Estuary. The Escatawpa area is extensively developed and industrialized and it is invalid to compare to the St. Louis Bay watershed because a large portion is uninhabited.

Mr. Greg Jackson, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, June 23, 2001

RESPONSE

The loading rates used in the TMDL were proportioned to represent the actual land use loadings in the watershed.

COMMENT

The TMDL states that data indicate there is not a present problem or water quality standards violation due to pH in the Escatawpa River. Since this is the case, why is a TMDL being proposed for this pollutant ?

Mr. Greg Jackson, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, June 23, 2001

RESPONSE

The Consent Decree between the Environmental Protection Agency (EPA) and the Sierra Club in the Mississippi Total Maximum Daily Load (TMDL) Lawsuit requires EPA to develop TMDLs for waters included on Mississippi's 1996 303(d) List of Impaired Waterbodies, according to a prescribed schedule. The 1996 Section 303(d) List includes all waters determined to be impaired based on monitored or evaluated assessments, and shows cause(s) of impairment for each listed waterbody. In many cases, the causes listed for monitored waterbodies are listed based on evaluated assessments. These are potential causes of impairment based on local land uses, such as agriculture. In some cases, a monitored waterbody is listed with only evaluated causes. Pursuant to the Consent Decree, EPA is responsible for developing TMDLs for all causes associated with the monitored waterbodies on the 1996 Section 303(d) List, regardless of whether these waters or causes were determined to be monitored or evaluated. This portion of the Escatawpa River is listed as a monitored waterbody on the 1996 Mississippi Section 303(d) List and EPA is obligated under the Consent Decree to develop these TMDLs at this time.

COMMENT

"Continuous" pH monitoring requirements are incorrect. Several NPDES permit holders are not required to continuously monitor pH.

Mr. Greg Jackson, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, June 23, 2001

RESPONSE

July 2, 2001

20

The decision to require grab or continuous sampling is a permits decision and will not be included in the TMDL.

COMMENT

The first sentence on page 19 is incorrect in its reference to more than one segment - there is only one segment in this TMDL. There are WET tests from the permit holders and recent toxicity data that indicate there is not impairment in the stream. This TMDL should not be proposed.

Mr. Greg Jackson, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, June 23, 2001

RESPONSE

Available data is noted in the TMDL. The Consent Decree between the Environmental Protection Agency (EPA) and the Sierra Club in the Mississippi Total Maximum Daily Load (TMDL) Lawsuit requires EPA to develop TMDLs for waters included on Mississippi's 1996 303(d) List of Impaired Waterbodies, according to a prescribed schedule. The 1996 Section 303(d) List includes all waters determined to be impaired based on monitored or evaluated assessments, and shows cause(s) of impairment for each listed waterbody. In many cases, the causes listed for monitored waterbodies are listed based on evaluated assessments. These are potential causes of impairment based on local land uses, such as agriculture. In some cases, a monitored waterbody is listed with only evaluated causes. Pursuant to the Consent Decree, EPA is responsible for developing TMDLs for all causes associated with the monitored waterbodies on the 1996 Section 303(d) List, regardless of whether these waters or causes were determined to be monitored or evaluated. This portion of the Escatawpa River is listed as a monitored waterbody on the 1996 Mississippi Section 303(d) List and EPA is obligated under the Consent Decree to develop these TMDLs at this time.

COMMENT

On page 21, it is indicated that toxicity monitoring will be conducted. This monitoring has been completed and results have been provided. This toxicity TMDL is not required and should not be proposed.

Mr. Greg Jackson, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, June 23, 2001

RESPONSE

EPA concurs that based on recent toxicity tests that no toxicity was found in this waterbody. The toxicity sampling strategy was removed from the TMDL.

COMMENT

The quoted chlorine value of 0.11 ug/l on pages 22 and 23 is incorrect. The correct state standard for saltwater is 7.5 ug/l. The correct TMDL value would be 2.03 lbs/day.

Mr. Greg Jackson, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, June 23, 2001

July 2, 2001

21

RESPONSE

This has been corrected in the TMDL.

COMMENT

The commenter objects to the approval or creation by EPA of any TMDL for a waterbody segment for which there is no scientifically reliable monitoring data indicating impairment. MDEQ also objects to continuation of a TMDL once data have been collected that show no current impairment. The TMDLs recently re-proposed for the Escatawpa River are objectionable, in part, on these grounds. The approval and implementation by EPA of a TMDL can have serious repercussions on existing and new permitting activity in an area. The commenter believes that the promulgation of a TMDL by EPA in the absence of scientifically defensible monitoring data and/or modeling results is an arbitrary and capricious decision that may subject EPA's future permitting decisions, based in whole or in part on that TMDL, to administrative or judicial review and reversal. To the extent that the implementation of the TMDL would cause MDEQ, the Mississippi Commission on Environmental Quality, or the Mississippi Environmental Quality Permit Board to take arbitrary and capricious regulatory actions, those entities may be forced to determine that the approval of an unsubstantiated TMDL is an action beyond EPA's statutory authority and is, thus, not an enforceable part of the federal water pollution control regime as delegated to and administered by the State of Mississippi. The commenter requests that EPA Region 4 withdraw the current document and only re-propose TMDLs for this waterbody segment for organic enrichment / low dissolved oxygen where data have been collected to confirm actual pollutant specific impairment.

Mr. Barry S. Royals, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, June 25, 2001

RESPONSE

The Consent Decree between the Environmental Protection Agency (EPA) and the Sierra Club in the Mississippi Total Maximum Daily Load (TMDL) Lawsuit requires EPA to develop TMDLs for waters included on Mississippi's 1996 303(d) List of Impaired Waterbodies, according to a prescribed schedule. The 1996 Section 303(d) List includes all waters determined to be impaired based on monitored or evaluated assessments, and shows cause(s) of impairment for each listed waterbody. In many cases, the causes listed for monitored waterbodies are listed based on evaluated assessments. These are potential causes of impairment based on local land uses, such as agriculture. In some cases, a monitored waterbody is listed with only evaluated causes. Pursuant to the Consent Decree, EPA is responsible for developing TMDLs for all causes associated with the monitored waterbodies on the 1996 Section 303(d) List, regardless of whether these waters or causes were determined to be monitored or evaluated. This portion of the Escatawpa River is listed as a monitored waterbody on the 1996 Mississippi Section 303(d) List and EPA is obligated under the Consent Decree to develop these TMDLs at this time.

COMMENT

July 2, 2001

22

The commenter would be pleased to hear and consider the explanation for why EPA now has decided to propose TMDLs for evaluated (not monitored) pollutant parameters and stream segments for which virtually no scientifically defensible information exists demonstrating a violation of Mississippi water quality standards. The commenter believes that EPA Region 4 failed to respond adequately to this comment in the February 27, 2001 letter and ask again for a response.

Mr. Barry S. Royals, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, June 25, 2001

RESPONSE

The Consent Decree between the Environmental Protection Agency (EPA) and the Sierra Club in the Mississippi Total Maximum Daily Load (TMDL) Lawsuit requires EPA to develop TMDLs for waters included on Mississippi's 1996 303(d) List of Impaired Waterbodies, according to a prescribed schedule. The 1996 Section 303(d) List includes all waters determined to be impaired based on monitored or evaluated assessments, and shows cause(s) of impairment for each listed waterbody. In many cases, the causes listed for monitored waterbodies are listed based on evaluated assessments. These are potential causes of impairment based on local land uses, such as agriculture. In some cases, a monitored waterbody is listed with only evaluated causes. Pursuant to the Consent Decree, EPA is responsible for developing TMDLs for all causes associated with the monitored waterbodies on the 1996 Section 303(d) List, regardless of whether these waters or causes were determined to be monitored or evaluated. This portion of the Escatawpa River is listed as a monitored waterbody on the 1996 Mississippi Section 303(d) List and EPA is obligated under the Consent Decree to develop these TMDLs at this time.

COMMENT

In February 2001, the commenter requested that EPA Region 4 rewrite all sections in these TMDLs that arbitrarily eliminate possible growth in discharge. These decisions must be made on scientific data, not mere speculation. MDEQ has provided data that indicate that there are no impairments for pathogens, pH, chlorine, total toxics, and nonpriority organics. The commenter requests that EPA withdraw these TMDLs and accept the State's intention to delist to finalize this matter.

Mr. Barry S. Royals, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, June 25, 2001

RESPONSE

EPA does recognize that the State notified EPA of its intention to delist several causes in the listed segments. Under the Mississippi TMDL Lawsuit Consent Decree, EPA is under no obligation to propose TMDLs for any water quality limited segments that are determined not to need TMDLs. The notices of intent to delist were submitted to Region 4 after the TMDLs were originally proposed but before they were re-proposed. EPA had not yet made the determination that TMDLs were not needed by the time of the re-proposal.

COMMENT

July 2, 2001

23

Requests copies of all comments along with EPA's responses regarding the Escatawpa TMDLs for the second public notice.

Mr. Barry S. Royals, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, June 25, 2001

RESPONSE

This information is provided in this document.

COMMENT

Concerning the dissolved oxygen TMDL, the appropriate and correct water quality model needs to be developed for this waterbody. The current model (based on CEQUAL) used for this study is unverified and, therefore, may be unreliable for establishing the TMDL allocations. The model should be completed based on the WASP water quality model. The commenter requests that EPA Region 4 complete the modeling needed for this TMDL development.

The commenter provided this comment in February 2001, and requests a response and an explanation of why EPA did not consider the input.

Mr. Barry S. Royals, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, June 25, 2001

RESPONSE

This is a Phase 1 TMDL required to be completed to meet Consent Decree deadlines. Phase 2 will include the more detailed modeling that is being requested.

COMMENT

Concerning the dissolved oxygen TMDL, an explicit margin of safety is not needed for this pollutant. There is an allowance for a 10% sag below natural conditions. The modeling effort used to establish this natural condition value is inherently conservative. It is based on 7Q10 flows with all of the permitted dischargers set at maximum permit limits. EPA should quantify these conservative assumptions and show some percentage of implicit margin of safety. An additional arbitrary explicit MOS is unnecessary in this case. The commenter requests that EPA Region 4 modify the TMDL.

The commenter provided this comment in February 2001, and requests a response and an explanation of why EPA did not consider the input.

Mr. Barry S. Royals, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, June 25, 2001

RESPONSE

Comment noted, but EPA believes this is an appropriate application of the MOS.

COMMENT

The commenter again requests that EPA Region 4 agree with MDEQ's delisting decision on chlorine for this waterbody segment. MDEQ previously provided documentation to EPA

July 2, 2001

24

Region 4 to indicate the *good cause justification* for removal of this pollutant from the next Section 303(d) list. The original concern was that residual chlorine was being discharged to the river from an existing industry. There are no known sources that currently discharge chlorine. A TMDL is not needed for this pollutant, and the commenter again requests that EPA Region 4 withdraw the chlorine TMDL.

Mr. Barry S. Royals, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, June 25, 2001

RESPONSE

EPA does recognize that the State notified EPA of its intention to delist several causes in the listed segments. Under the Mississippi TMDL Lawsuit Consent Decree, EPA is under no obligation to propose TMDLs for any water quality limited segments that are determined not to need TMDLs. The notices of intent to delist were submitted to Region 4 after the TMDLs were originally proposed but before they were re-proposed. EPA had not yet made the determination that TMDLs were not needed by the time of the re-proposal.

COMMENT

The commenter requests that EPA Region 4 withdraw the fecal coliform TMDL and delist the fecal coliform cause based on *good cause justification*. Modeling by EPA indicates that the river is not impaired due to fecal coliform bacteria. MDEQ has submitted delisting documentation for this cause and awaits EPA's response.

Mr. Barry S. Royals, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, June 25, 2001

RESPONSE

EPA does recognize that the State notified EPA of its intention to delist several causes in the listed segments. Under the Mississippi TMDL Lawsuit Consent Decree, EPA is under no obligation to propose TMDLs for any water quality limited segments that are determined not to need TMDLs. The notices of intent to delist were submitted to Region 4 after the TMDLs were originally proposed but before they were re-proposed. EPA had not yet made the determination that TMDLs were not needed by the time of the re-proposal.

COMMENT

The commenter requests that EPA withdraw the pH TMDL and delist the pH cause. The TMDL describes the data which shows there is no impairment for this cause. MDEQ has submitted delisting documentation for this cause and awaits EPA's response.

Mr. Barry S. Royals, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, June 25, 2001

RESPONSE

EPA does recognize that the State notified EPA of its intention to delist several causes in the listed segments. Under the Mississippi TMDL Lawsuit Consent Decree, EPA is under no obligation to propose TMDLs for any water quality limited segments that are determined not to need TMDLs. The notices of intent to delist were submitted to Region 4 after the

July 2, 2001

25

TMDLs were originally proposed but before they were re-proposed. EPA had not yet made the determination that TMDLs were not needed by the time of the re-proposal.

COMMENT

The commenter requests EPA withdraw the toxicity-based TMDL. Recent toxicity monitoring of this waterbody indicated there is no toxicity impairment. No further TMDL activity is needed.

Mr. Barry S. Royals, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, June 25, 2001

RESPONSE

EPA does recognize that the State notified EPA of its intention to delist several causes in the listed segments. Under the Mississippi TMDL Lawsuit Consent Decree, EPA is under no obligation to propose TMDLs for any water quality limited segments that are determined not to need TMDLs. The notices of intent to delist were submitted to Region 4 after the TMDLs were originally proposed but before they were re-proposed. EPA had not yet made the determination that TMDLs were not needed by the time of the re-proposal.

COMMENT

The commenter requests that EPA take the necessary time needed to address the needed modifications, monitoring efforts, modeling revisions, and delisting decisions noted.

Mr. Barry S. Royals, Mississippi Department of Environmental Quality, Post Office Box 10385, Jackson, Mississippi 39289-0385, June 25, 2001

RESPONSE

Comment noted.

COMMENT

The commenter requests copies of all public comments, along with your responses, received by EPA Region 4 regarding these proposed TMDLs for Escatawpa Segment.

Warren Gifford, CHMM, Rohm and Haas Company, June 23, 2001

RESPONSE

This information is provided in this document.

COMMENT

The 22 day public notice was insufficient in length for the Escatawpa River watershed stakeholder group to adequately address the issues raised in our previous comments and to compare the two documents. We should have been allowed a 30 public notice period at a minimum.

Warren Gifford, CHMM, Rohm and Haas Company, June 23, 2001

RESPONSE

Due to the opportunity allowed for the original TMDL and EPA's participation in stakeholder meetings to discuss the TMDL and the TMDL process after that proposal, EPA

July 2, 2001

26

believes that sufficient opportunity did exist for the review of the re-proposed TMDL. Additionally, due to Consent Decree deadline to finalize this TMDL by June 30, 2001, EPA is unable to extend the date to finalize the TMDL unless a showing is made to the court demonstrating the need to extend the period to finalize the TMDL.

COMMENT

The inclusion of HUC 03170006 on the cover is an error. This segment MS107M3 is completely contained within HUC 03170008.

Warren Gifford, CHMM, Rohm and Haas Company, June 23, 2001

RESPONSE

This has been corrected in the TMDL.

COMMENT

On page ii, the WLA and the Ultimate BOD TMDL values are wrong. They should be 49,220 lbs/day and 101,770 lbs/day. This incorporates the 3.0 MGD value for the Moss Point POTW for this pollutant load calculation.

Warren Gifford, CHMM, Rohm and Haas Company, June 23, 2001

RESPONSE

This has been corrected in the TMDL.

COMMENT

The load shown on this page was developed with the incorrect standard applied from MDEQ's water quality standards. This value should be 2.03 lbs/day. I was able to duplicate the calculations EPA provided by using the incorrect value given for Mississippi's Chlorine standard. The correct standard for this waterbody is 7.5 g/l. This waterbody segment is saltwater. EPA also misquoted the fresh water standard from Mississippi's standards. That value is 11 g/l, not the 0.11 g/l used in this TMDL.

Notwithstanding the incorrect standard usage, the Escatawpa River is not impaired for chlorine and therefore setting a TMDL for chlorine is not required by regulation.

Warren Gifford, CHMM, Rohm and Haas Company, June 23, 2001

RESPONSE

Use of the appropriate chlorine criterion has been corrected in the TMDL.

With regard to the need for the Chlorine TMDL, EPA does recognize that the State notified EPA of its intention to delist several causes in the listed segments. Under the Mississippi TMDL Lawsuit Consent Decree, EPA is under no obligation to propose TMDLs for any water quality limited segments that are determined not to need TMDLs. The notices of intent to delist were submitted to Region 4 after the TMDLs were originally proposed but before they were re-proposed. EPA had not yet made the determination that TMDLs were not needed by the time of the re-proposal.

COMMENT

On page 3 of the TMDL the last sentence states “Additionally, no monitoring in the last 25 years has been has been performed to assess toxicity due to nonpriority organics, chlorine and total toxics.” There is a grammatical error in this sentence. “Has been” is in here twice. Also, this sentence is factually incorrect. MDEQ collected samples this spring regarding the toxicity in Escatawpa River. EPA’s laboratory in Athens Georgia analyzed the samples for MDEQ and MDEQ presented these results to EPA Region 4 as a basis for our intention to delist this segment for these causes. Additionally, WET testing of the effluents from Rohm and Haas, International Paper, and the Moss Point POTW have been ongoing. This sentence should be removed from the TMDL.

Warren Gifford, CHMM, Rohm and Haas Company, June 23, 2001

RESPONSE

This has been corrected in the TMDL.

COMMENT

EPA has used the wrong word on page 5 of the TMDL. The use of the word “aerial” is incorrect in this context. The correct word is “areal.”

Warren Gifford, CHMM, Rohm and Haas Company, June 23, 2001

RESPONSE

This has been corrected in the TMDL.

COMMENT

The table on page 9 does not match similar tables on pages 17 and 23. To be consistent and accurate, EPA should modify the flow value for Escatawpa Municipal to reflect the change at the facility from 1.0 MGD to 3.0 MGD. EPA should also modify the calculations for the TMDL to be consistent throughout the document.

Warren Gifford, CHMM, Rohm and Haas Company, June 23, 2001

RESPONSE

This has been corrected in the TMDL.

COMMENT

The use of a target value of 150 counts per 100 ml on page 13 is arbitrary. The state standard is 200 during the summer and 2000 during the winter. This yields an explicit margin of safety of 1850 counts per 100 ml during the winter months. That is excessive and unnecessary. EPA should not arbitrarily set TMDL targets that differ from state standards. This practice only leads to confusion.

Warren Gifford, CHMM, Rohm and Haas Company, June 23, 2001

RESPONSE

The fecal coliform TMDL was developed for the critical condition represented by the summer period, however, the TMDL incorporates an explicit margin of safety of 50 counts

per 100 ml which brings the TMDL target down to 150 counts per 100 ml.

COMMENT

The TMDL states significant model parameters obtained during calibration in the St. Louis Bay watershed were applied to the Escatawpa Estuary. The NPSM values used in the upper reaches of St. Louis Bay watershed are based on land use that is significantly different than that of this small waterbody segment. A large portion of St. Louis Bay watershed is uninhabited due to the Stennis Space Center exclusion area. The Escatawpa area is extensively developed and industrialized.

Warren Gifford, CHMM, Rohm and Haas Company, June 23, 2001

RESPONSE

The loading rates used in the TMDL were proportioned to represent the actual land use loadings in the watershed.

COMMENT

The TMDL states on page 18 “Based on these data there is not a present problem or water quality standards violation due to pH in the Escatawpa River segment.” Since this is the case, why is a TMDL being proposed for this pollutant?

Warren Gifford, CHMM, Rohm and Haas Company, June 23, 2001

RESPONSE

EPA does recognize that the State notified EPA of its intention to delist several causes in the listed segments. Under the Mississippi TMDL Lawsuit Consent Decree, EPA is under no obligation to propose TMDLs for any water quality limited segments that are determined not to need TMDLs. The notices of intent to delist were submitted to Region 4 after the TMDLs were originally proposed but before they were re-proposed. EPA had not yet made the determination that TMDLs were not needed by the time of the re-proposal.

COMMENT

On page 18 the TMDL includes language regarding pH-monitoring requirements. The inclusion of the word “continuous” is incorrect. Several of the NPDES Permit holders are not required to continuously monitor pH. This word should be removed from the TMDL.

Warren Gifford, CHMM, Rohm and Haas Company, June 23, 2001

RESPONSE

The decision to require grab or continuous sampling is a permits decision and will not be included in the TMDL.

COMMENT

The first sentence on page 19 is incorrect. It begins with “Since there are no data to determine impairment status for these segments”. First, there is only one segment in this TMDL. Second, there are WET tests from the permit holders and there is recently obtained toxicity data that indicate there is no impairment in the stream. This TMDL should not be proposed.

Warren Gifford, CHMM, Rohm and Haas Company, June 23, 2001

RESPONSE

Available data is noted in the TMDL. The Consent Decree between the Environmental Protection Agency (EPA) and the Sierra Club in the Mississippi Total Maximum Daily Load (TMDL) Lawsuit requires EPA to develop TMDLs for waters included on Mississippi's 1996 303(d) List of Impaired Waterbodies, according to a prescribed schedule. The 1996 Section 303(d) List includes all waters determined to be impaired based on monitored or evaluated assessments, and shows cause(s) of impairment for each listed waterbody. In many cases, the causes listed for monitored waterbodies are listed based on evaluated assessments. These are potential causes of impairment based on local land uses, such as agriculture. In some cases, a monitored waterbody is listed with only evaluated causes. Pursuant to the Consent Decree, EPA is responsible for developing TMDLs for all causes associated with the monitored waterbodies on the 1996 Section 303(d) List, regardless of whether these waters or causes were determined to be monitored or evaluated. This portion of the Escatawpa River is listed as a monitored waterbody on the 1996 Mississippi Section 303(d) List and EPA is obligated under the Consent Decree to develop these TMDLs at this time.

COMMENT

On page 21, this TMDL references toxicity monitoring that will be conducted. This monitoring has been completed, and the SESD laboratory in Athens Georgia has already provided the results of this monitoring. This toxicity TMDL is not required and should not be proposed.

Warren Gifford, CHMM, Rohm and Haas Company, June 23, 2001

RESPONSE

Available data is noted in the TMDL. The Consent Decree between the Environmental Protection Agency (EPA) and the Sierra Club in the Mississippi Total Maximum Daily Load (TMDL) Lawsuit requires EPA to develop TMDLs for waters included on Mississippi's 1996 303(d) List of Impaired Waterbodies, according to a prescribed schedule. The 1996 Section 303(d) List includes all waters determined to be impaired based on monitored or evaluated assessments, and shows cause(s) of impairment for each listed waterbody. In many cases, the causes listed for monitored waterbodies are listed based on evaluated assessments. These are potential causes of impairment based on local land uses, such as agriculture. In some cases, a monitored waterbody is listed with only evaluated causes. Pursuant to the Consent Decree, EPA is responsible for developing TMDLs for all causes associated with the monitored waterbodies on the 1996 Section 303(d) List, regardless of whether these waters or causes were determined to be monitored or evaluated. This portion of the Escatawpa River is listed as a monitored waterbody on the 1996 Mississippi Section 303(d) List and EPA is obligated under the Consent Decree to develop these TMDLs at this time.

COMMENT

While we realize that TMDLs are necessary, there are waters that are naturally impaired due to environmental and hydrologic conditions. It is inappropriate to set a BOD limit addressing a mostly

July 2, 2001

30

natural condition that impairs the future economic development of the entire geographic area of Jackson County. The dischargers in the area comply with the conditions of their NPDES permits, contributing only a minor part of the contaminants which are known to exacerbate the concentration of DO. We do not consider it acceptable to impose overly restrictive BOD limits on the present dischargers of Jackson County and, equally as important, allowing for no further economic development of the area.

Flinda R. Hill, Mississippi Power Company, June 26, 2001

RESPONSE

Comment noted.

COMMENT

The balance of the parameters for which TMDLs have been addressed (pathogens, pH, Total Toxics, Nonpriority Organics and Chlorine), were originally listed for evaluated or historical reasons. Neither the EPA nor the Judicial System has the authority to require TMDLs to be written based on historical or evaluated listings, rather than monitored. According to the Clean Water Act, the agency only has authority to set TMDLs for those waters that have been shown or are known to be impaired. These should all be excluded from the TMDL document.

Flinda R. Hill, Mississippi Power Company, June 26, 2001

RESPONSE

The Consent Decree between the Environmental Protection Agency (EPA) and the Sierra Club in the Mississippi Total Maximum Daily Load (TMDL) Lawsuit requires EPA to develop TMDLs for waters included on Mississippi's 1996 303(d) List of Impaired Waterbodies, according to a prescribed schedule. The 1996 Section 303(d) List includes all waters determined to be impaired based on monitored or evaluated assessments, and shows cause(s) of impairment for each listed waterbody. In many cases, the causes listed for monitored waterbodies are listed based on evaluated assessments. These are potential causes of impairment based on local land uses, such as agriculture. In some cases, a monitored waterbody is listed with only evaluated causes. Pursuant to the Consent Decree, EPA is responsible for developing TMDLs for all causes associated with the monitored waterbodies on the 1996 Section 303(d) List, regardless of whether these waters or causes were determined to be monitored or evaluated. This portion of the Escatawpa River is listed as a monitored waterbody on the 1996 Mississippi Section 303(d) List and EPA is obligated under the Consent Decree to develop these TMDLs at this time.

COMMENT

Establishing TMDLs for only those known impairments within the 10 year Court ordered time frame will be a great challenge in and of itself. One of the foci of the process should be to produce consistent, scientifically defensible, and accurate TMDLs. At the present schedule, attempting to set TMDLs for parameters that have not been shown to impair waters will only serve to reduce the quality of those TMDLs that are known to be necessary. Data showing impairment should be a prerequisite to setting any TMDL, Court ordered notwithstanding. Any force that causes science

July 2, 2001

31

to be compromised, and an inferior product to be produced, is placing emphasis in a very unproductive, irresponsible way.

Flinda R. Hill, Mississippi Power Company, June 26, 2001

RESPONSE

Comment noted.

COMMENT

The DO TMDL calculation is flawed by several different factors:

1. The waterbody specific State Water Quality Criteria value for DO of 3.0 mg/l was ignored in the process-the EPA does not have the authority (in States which have primacy) to put into place Water Quality Criteria which have not first gone through the prescribed regulatory public review process.
2. The suggested TMDL does not take into consideration seasonal variations further limiting dischargers unnecessarily.
3. The CE-QUAL-W2 model on which the TMDL was based is only a two dimensional model which was not validated by all of the available data sets-EFDC and WASP would provide a much more accurate representation of the actual in-stream conditions.

Flinda R. Hill, Mississippi Power Company, June 26, 2001

RESPONSE

This is a phase 1 TMDL in which the best available information and tools were used. During the Phase 2 TMDL and during the waterbody's water quality standards reevaluation, these issues will be examined in more detail.

COMMENT

The implied margins of safety are overly protective when one takes into consideration:

1. The exclusion of the State waterbody specific D.O. criteria of 3.0 mg/l
2. Using the coldwater criteria reference in EPA's Gold Book
3. Using the Summer criteria as worst case, rather than taking into consideration seasonal variations

Flinda R. Hill, Mississippi Power Company, June 26, 2001

RESPONSE

EPA has taken a reasonable approach in developing DO targets for this waterbody. During the next few years, MDEQ and EPA will be developing new water quality standards for the system. The public's thoughts and suggestions on this issue will be considered at that time.

COMMENT

EPA has accepted and allowed a 3.0 mg/l criteria in Segment 3 of the Escatawpa River for many years. It is interesting that, prior to this process, the criteria variance was honored. If 3.0 mg/l were the applicable criteria, the segment would not be listed and a TMDL would not be necessary.

Flinda R. Hill, Mississippi Power Company, June 26, 2001

July 2, 2001

32

RESPONSE

Since the water was included on the State's 303(d) list, a TMDL was required to be developed.

COMMENT

The State water quality criteria do not require that discharges "be monitored continuously with a pH record", as stated in the document. Many permittees are required to test "once per week with a grab sample". EPA does not have the authority to impose overly restrictive requirements that change a State's criteria without due process within that state.

Flinda R. Hill, Mississippi Power Company, June 26, 2001

RESPONSE

The decision to require grab or continuous sampling is a permits decision and will not be included in the TMDL.

COMMENT

In March of 2000, the Mississippi State Department of Environmental Quality submitted a 303 (d) list that delisted Segment 3 for Chlorine, based on evidence that showed that the parameter was initially inappropriately listed (on an evaluated basis). Supporting evidence is available and has been offered, however the EPA has neglected to delist it and has included the parameter in the document.

Flinda R. Hill, Mississippi Power Company, June 26, 2001

RESPONSE

EPA does recognize that the State notified EPA of its intention to delist several causes in the listed segments. Under the Mississippi TMDL Lawsuit Consent Decree, EPA is under no obligation to propose TMDLs for any water quality limited segments that are determined not to need TMDLs. The notices of intent to delist were submitted to Region 4 after the TMDLs were originally proposed but before they were re-proposed. EPA had not yet made the determination that TMDLs were not needed by the time of the re-proposal.

COMMENT

Toxicity is not even known to exist in the Escatawpa River. If toxicity tests are to be performed on the receiving water or on the discharger's effluent, salt water species should be employed using the acute whole effluent toxicity (WET) test. The NPDES regulations of the State of Mississippi state that water containing greater than 1,000 mg/l salinity will be considered salt. It is known that extreme variability exists in the WET testing process, producing results that are not repeatable, in many cases. The test is measured in arbitrary units that have little direct correlation to conditions within the stream. There is an additional arbitrary 20% margin of safety applied. Why would the EPA base something as important as a discharger's compliance on a test that produces questionable, uninterpretable and variable results, at best? How would a new facility or an unconstructed new discharge point prove their level of toxicity in order to procure a permit?

Flinda R. Hill, Mississippi Power Company, June 26, 2001

RESPONSE

Toxicity testing of the waterbody will be dependent on the salinity of the water. For the Escatawpa River, both fresh and salt water species were used. Permitting issues and permit requirements should be addressed through the NPDES permitting process.

COMMENT

Mississippi Power Company is interested in the development of a reasonable TMDL for Dissolved Oxygen in the Escatawpa River that addresses the actual conditions and causes of the lower concentrations. If the causes are overwhelmingly natural, unreasonable restrictions should not be placed on the dischargers that will not result in improved water quality. The 3.0 mg/l variance should stand. We do not agree that addressing any of the other parameters in the document is necessary or warranted.

Flinda R. Hill, Mississippi Power Company, June 26, 2001

RESPONSE

The Consent Decree between the Environmental Protection Agency (EPA) and the Sierra Club in the Mississippi Total Maximum Daily Load (TMDL) Lawsuit requires EPA to develop TMDLs for waters included on Mississippi's 1996 303(d) List of Impaired Waterbodies, according to a prescribed schedule. The 1996 Section 303(d) List includes all waters determined to be impaired based on monitored or evaluated assessments, and shows cause(s) of impairment for each listed waterbody. In many cases, the causes listed for monitored waterbodies are listed based on evaluated assessments. These are potential causes of impairment based on local land uses, such as agriculture. In some cases, a monitored waterbody is listed with only evaluated causes. Pursuant to the Consent Decree, EPA is responsible for developing TMDLs for all causes associated with the monitored waterbodies on the 1996 Section 303(d) List, regardless of whether these waters or causes were determined to be monitored or evaluated. This portion of the Escatawpa River is listed as a monitored waterbody on the 1996 Mississippi Section 303(d) List and EPA is obligated under the Consent Decree to develop these TMDLs at this time.

COMMENT

We would like to continue to work with Region IV personnel to produce a product that will be adequate and acceptable to the effected parties. It is suggested that the process include ample time to assess the Escatawpa River for actual toxicity and to model the dissolved oxygen using EFDC and WASP, for a three dimensional picture that includes seasonal variations. A public meeting may be beneficial, in addition to future stakeholder meetings, to affect necessary changes in the document and the science that supports it.

Flinda R. Hill, Mississippi Power Company, June 26, 2001

RESPONSE

EPA agrees that it is beneficial and productive to work with the stakeholders and affected parties in the development of TMDLs. EPA welcomes the opportunity to do so during subsequent phases of this TMDL as additional data, information and analytical approaches

July 2, 2001

34

are developed to update the TMDL.

COMMENT

Dissolved Oxygen is the only parameter that is contained in the document that has been shown to be impaired in this segment of the Escatawpa River. TMDLs have been included for Pathogens, pH, Chlorine, Total Toxics and Non-Priority Organics. These have all been proven to be within Water Quality parameters by valid sampling and analysis or by research proving a listing error. According to pages ii and 2 of the TMDL document, the stream segment should be delisted for these parameters and should not have a TMDL written for them, based on the "biological or toxicity/water quality monitoring to be conducted". Concrete evidence of all delisting requests, including Whole Effluent Toxicity data from the Escatawpa River (for Total Toxics and Nonpriority Organics) have been submitted to the EPA with the request for delisting, and has subsequently been ignored. Even in the TMDL document itself, the EPA states repeatedly that no impairment was shown during the calculation/data gathering process (Pathogens, pH and Chlorine).

Flinda R. Hill, Mississippi Power Company, June 26, 2001

RESPONSE

The Consent Decree between the Environmental Protection Agency (EPA) and the Sierra Club in the Mississippi Total Maximum Daily Load (TMDL) Lawsuit requires EPA to develop TMDLs for waters included on Mississippi's 1996 303(d) List of Impaired Waterbodies, according to a prescribed schedule. The 1996 Section 303(d) List includes all waters determined to be impaired based on monitored or evaluated assessments, and shows cause(s) of impairment for each listed waterbody. In many cases, the causes listed for monitored waterbodies are listed based on evaluated assessments. These are potential causes of impairment based on local land uses, such as agriculture. In some cases, a monitored waterbody is listed with only evaluated causes. Pursuant to the Consent Decree, EPA is responsible for developing TMDLs for all causes associated with the monitored waterbodies on the 1996 Section 303(d) List, regardless of whether these waters or causes were determined to be monitored or evaluated. This portion of the Escatawpa River is listed as a monitored waterbody on the 1996 Mississippi Section 303(d) List and EPA is obligated under the Consent Decree to develop these TMDLs at this time.

COMMENT

The EPA does not have the authority to require TMDLs to be written based on historical or evaluated listings, rather than monitored. According to the Clean Water Act, the agency only has authority to set TMDLs for those waters that have been shown or are known to be impaired. These have been demonstrated by concrete data and monitoring to not be impaired and should therefore be delisted. Establishing TMDLs for only those known impairments within the 10 year Court ordered time frame would be a great challenge in and of itself. The focus of the process should be to produce consistent, scientifically defensible, and accurate TMDLs. With the present schedule, attempting to set TMDLs for parameters that have not been shown to impair waters will only serve to reduce the quality of those TMDLs that are known to be necessary. Data showing impairment should be a prerequisite to setting any TMDL, Court Order notwithstanding.

July 2, 2001

35

Flinda R. Hill, Mississippi Power Company, June 26, 2001

RESPONSE

The Consent Decree between the Environmental Protection Agency (EPA) and the Sierra Club in the Mississippi Total Maximum Daily Load (TMDL) Lawsuit requires EPA to develop TMDLs for waters included on Mississippi's 1996 303(d) List of Impaired Waterbodies, according to a prescribed schedule. The 1996 Section 303(d) List includes all waters determined to be impaired based on monitored or evaluated assessments, and shows cause(s) of impairment for each listed waterbody. In many cases, the causes listed for monitored waterbodies are listed based on evaluated assessments. These are potential causes of impairment based on local land uses, such as agriculture. In some cases, a monitored waterbody is listed with only evaluated causes. Pursuant to the Consent Decree, EPA is responsible for developing TMDLs for all causes associated with the monitored waterbodies on the 1996 Section 303(d) List, regardless of whether these waters or causes were determined to be monitored or evaluated. This portion of the Escatawpa River is listed as a monitored waterbody on the 1996 Mississippi Section 303(d) List and EPA is obligated under the Consent Decree to develop these TMDLs at this time.

COMMENT

Two of the industry point source contributors (41,530 lbs/day UBOD out of a total WLA of 48,770 lbs/day) have announced plans for closure of their facilities by the end of 2001. Even though their permits will not be relinquished, their actual BOD loading will decrease. That portion of the WLA that will become available should be allocated to a bank for future permitting. This may be what is ultimately intended but is not stated as such in the document. These industries' closures will have a devastating effect on the Jackson County economy and need to be offset as soon as it is possible by attracting new industry.

The BOD calculation itself is flawed because it fails to reflect Moss Point POTW's permitted expansion to 3 MGD. Their subsequent loading should be increased to 750 lbs/day and should be reflected in the WLA by increasing it to 49,270 pounds and the resulting Ultimate BOD TMDL to 101,770 lbs/day. Similarly, the table on page 9 should reflect their flow as 3.0 MGD as are the flows used for the calculation of Chlorine and Pathogen TMDLs (see pages 17 and 23).

Flinda R. Hill, Mississippi Power Company, June 26, 2001

RESPONSE

The TMDL has been updated to reflect the Moss Point POTW's permitted flow of 3 MGD.

COMMENT

The Chlorine calculation is extremely flawed as the MS State Water Quality Criterion was seriously misquoted as being 0.11 ug/l, when in reality the criterion is 7.5 ug/l. This becomes a moot point when the stream is appropriately delisted for Chlorine, which is the only appropriate and legal alternative. The parameter should be dropped from the document, but should at the very least be calculated and stated correctly.

Flinda R. Hill, Mississippi Power Company, June 26, 2001

July 2, 2001

36

RESPONSE

This has been corrected in the TMDL.

COMMENT

Pursuant to the large amount of work that has been put into the process by the stakeholders and the MDEQ personnel, the Escatawpa River TMDL would be most effectively implemented by performing the following: 1) recalculate the TMDL to accurately reflect the Dissolved Oxygen parameter, as indicated in our comments above, 2) eliminate all other elements in the proposed TMDL as inappropriate, based upon the significant body of evidence presented for delisting these parameters. Anything less will be viewed as arbitrary and capricious.

Flinda R. Hill, Mississippi Power Company, June 26, 2001

RESPONSE

The TMDL has been updated to reflect flow data and the chlorine criterion. With regard to TMDLs for the “evaluated” causes, The Consent Decree between the Environmental Protection Agency (EPA) and the Sierra Club in the Mississippi Total Maximum Daily Load (TMDL) Lawsuit requires EPA to develop TMDLs for waters included on Mississippi’s 1996 303(d) List of Impaired Waterbodies, according to a prescribed schedule. The 1996 Section 303(d) List includes all waters determined to be impaired based on monitored or evaluated assessments, and shows cause(s) of impairment for each listed waterbody. In many cases, the causes listed for monitored waterbodies are listed based on evaluated assessments. These are potential causes of impairment based on local land uses, such as agriculture. In some cases, a monitored waterbody is listed with only evaluated causes. Pursuant to the Consent Decree, EPA is responsible for developing TMDLs for all causes associated with the monitored waterbodies on the 1996 Section 303(d) List, regardless of whether these waters or causes were determined to be monitored or evaluated. This portion of the Escatawpa River is listed as a monitored waterbody on the 1996 Mississippi Section 303(d) List and EPA is obligated under the Consent Decree to develop these TMDLs at this time.

COMMENT

The Proposed TMDL states that “Therefore, no new or additional source of pollutant representative of any of the cited classes of respective impairments shall be introduced into these segments until:”. It is not acceptable to impose overly restrictive limits on the present dischargers of Jackson County and, equally as important, allowing for no further economic development of the area. As written, there is no procedure where a new industry could move into the area and be permitted to discharge. The decision to halt future economic growth of a community should be based on hard scientific facts.

Michael A. Smith, Jackson County Port Authority, June 26, 2001

RESPONSE

July 2, 2001

37

Comment noted.

COMMENT

The draft TMDL admits that additional data is necessary to validate the assumptions of the TMDL. EPA should wait for additional data before finalizing the TMDL.

Michael A. Smith, Jackson County Port Authority, June 26, 2001

RESPONSE

The Consent Decree between the Environmental Protection Agency (EPA) and the Sierra Club in the Mississippi Total Maximum Daily Load (TMDL) Lawsuit requires EPA to develop TMDLs for waters included on Mississippi's 1996 303(d) List of Impaired Waterbodies, according to a prescribed schedule. The 1996 Section 303(d) List includes all waters determined to be impaired based on monitored or evaluated assessments, and shows cause(s) of impairment for each listed waterbody. In many cases, the causes listed for monitored waterbodies are listed based on evaluated assessments. These are potential causes of impairment based on local land uses, such as agriculture. In some cases, a monitored waterbody is listed with only evaluated causes. Pursuant to the Consent Decree, EPA is responsible for developing TMDLs for all causes associated with the monitored waterbodies on the 1996 Section 303(d) List, regardless of whether these waters or causes were determined to be monitored or evaluated. This portion of the Escatawpa River is listed as a monitored waterbody on the 1996 Mississippi Section 303(d) List and EPA is obligated under the Consent Decree to develop these TMDLs at this time.

Since there are no data to determine impairment status for these segments and there are no specific pollutants identified for certain key "evaluated" causes, specific pollutant TMDL development is not possible at this time. For this reason, EPA is proposing a phased approach for the TMDL development for these "evaluated" listings. The phased TMDL approach recognizes that additional data and information may be necessary to validate the assumptions of the TMDL and to provide greater certainty that the TMDL will achieve the applicable water quality standard. Thus, Phase 1 identifies levels needed to protect the waterbody and Phase 2 identifies the data and information that needs to be collected to determine the specific causes and develops the appropriate pollutant reductions. The Phase 2 TMDL will include targeted pollution allocation strategies for specific causes of impairment and a margin of safety that addresses uncertainty about the relationship between load allocations and receiving water quality.

COMMENT

The Public Comment period was not long enough for the Port Authority or other entities to adequately review and comment on the draft TMDL. The Port Authority commented on the last draft, but did not get a written notice of the Public Comment period.

Michael A. Smith, Jackson County Port Authority, June 26, 2001

July 2, 2001

38

RESPONSE

EPA public noticed the availability of the June 5, 2001 re-proposed TMDL via a legal ad and a notice to the mailing list. Due to the opportunity allowed for the original TMDL and EPA's participation in stakeholder meetings to discuss the TMDL and the TMDL process after that proposal, EPA believes that sufficient opportunity did exist for the review of the re-proposed TMDL. Additionally, due to Consent Decree deadline to finalize this TMDL by June 30, 2001, EPA is unable to extend the date to finalize the TMDL unless a showing is made to the court demonstrating the need to extend the period to finalize the TMDL.

COMMENT

A public meeting and/or hearing is officially requested to present the draft report to the community at large, to discuss its implications, and to solicit comments on the draft TMDL.

Michael A. Smith, Jackson County Port Authority, June 26, 2001

RESPONSE

EPA public noticed the availability of the June 5, 2001 re-proposed TMDL via a legal ad and a notice to the mailing list. Due to the opportunity allowed for the original TMDL and EPA's participation in stakeholder meetings to discuss the TMDL and the TMDL process after that proposal, EPA believes that sufficient opportunity did exist for the review of the re-proposed TMDL. Additionally, due to Consent Decree deadline to finalize this TMDL by June 30, 2001, EPA is unable to extend the date to finalize the TMDL unless a showing is made to the court demonstrating the need to extend the period to finalize the TMDL.

Description of the Effectiveness of the Public Participation Program:

The public participation process in the matter of EPA's establishment of total maximum daily loads for pollutants and waters in the State of Mississippi was considered to be an important one. The number of comments received from the public, including local organizations, was significant. The expressed interest demonstrates that the opportunity for public participation in this matter was effective.